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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 9th May, 1994.

I

BILL No. XXXV OF 1994

*A Bill further to amend the Code of Criminal Procedure, 1973.*

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1994.

(*2*) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 20.

2 of 1974.

2. In section 20 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) The State Government may, by general or special order and subject to such control and directions as it may deem fit to impose, delegate its powers under sub-section (*4*) to the District Magistrate.".

Amendment of section 24.

3. In section 24 of the principal Act, in sub-section (*6*), after the proviso, the following *Explanation* shall be inserted and shall be deemed

to have been inserted with effect from the 18th day of December, 1978, namely:—

'*Explanation.*—For the purposes of this sub-section,—

(*a*) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of a Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(*b*) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public Prosecutor under this Code.'.

Insertion of new section 25A.

4. In Chapter II of the principal Act, after section 25, the following section shall be inserted, namely:—

Directorate of Prosecution.

**"25A. (*1*) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and as many Deputy Directors of Prosecution as it thinks fit.**

(*2*) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the State.

(*3*) Every Deputy Director of Prosecution shall be subordinate to the Director of Prosecution.

(*4*) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (*1*), or as the case may be, sub-section (*8*), of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution.

(*5*) Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the State Government under sub-section (*3*), or as the case may be, sub-section (*8*), of section 24 to conduct cases in District Courts and every Assistant Public Prosecutor appointed under sub-section (*1*) of section 25 shall be subordinate to the Deputy Director of Prosecution.

(*6*) The powers and functions of the Director of Prosecution and the Deputy Directors of Prosecution and the areas for which each of the Deputy Directors of Prosecution have been appointed shall be such as the State Government may by notification specify.

(*7*) The provisions of this section shall not apply to the Advocate General for the State while performing the functions of a Public Prosecutor.".

Amendment of section 29.

5. In section 29 of the principal Act,—

(*a*) in sub-section (*2*), for the words "five thousand rupees", the words "twenty-five thousand rupees" shall be substituted.

(*b*) in sub-section (*3*), for the words "one thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment of section 45.

**6.** In section 45 of the principal Act, in sub-section (*2*), after the words "members of the Force", the words "or to such other public servants" shall be inserted.

Amendment of section 46.

**7.** In section 46 of the principal Act,—

(*a*) in sub-section (*3*), the words "or is not a proclaimed offender declared under sub-section (*4*) of section 82" shall be added at the end;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Save in exceptional circumstances, no woman shall be arrested after sunset and before sunrise, and where such exceptional circumstances exist, the police officer shall, by making a written report, obtain the prior permission of his immediate superior officer for effecting such arrest or, if the case is one of extreme urgency and such prior permission cannot be obtained before making such arrest, he shall, after making the arrest, forthwith report the matter in writing to his immediate superior officer explaining the urgency and the reasons for not taking prior permission as aforesaid and shall also make a report to the Magistrate within whose local jurisdiction the arrest had been made.".

Insertion of new section 50A.

**8.** After section 50 of the principal Act, the following section shall be inserted, namely:—

Obligation of person making arrest to inform about the arrest, etc. to a nominated person.

"50A. Every police officer or other person making any arrest under this Code shall forthwith give the information regarding such arrest and the place where the arrested person is being held to such person as may be nominated by the arrested person for the purpose of giving such information.".

Amendment of section 53.

**9.** In section 53 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.—In this section and in sections 53A and 54,—

(*a*) "examination" shall include the examination of blood, swabs in case of sexual assault, sputum and sweat, hair samples and finger nail clippings and such other tests which the registered medical practitioner thinks necessary in a particular case;

(*b*) "registered medical practitioner" means a medical practitioner who possesses any medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 and whose name has been entered in a State Medical Register.'.

102 of 1956.

Insertion of new section 53A.

**10.** After section 53 of the principal Act, the following section shall be inserted, namely:—

Examination of person accused of rape by medical practitioner.

"53A. (*1*) When a person is arrested on a charge of committing an offence of rape or an attempt to commit rape and there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority and in the absence of such a practitioner, by any other registered medical practitioner, acting at the request of a police officer not below the rank of a sub-inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose.

(*2*) The registered medical practitioner conducting such examination shall, without delay, examine such person and prepare a report of his examination giving the following particulars, namely:—

(*i*) the name and address of the accused and of the person by whom he was brought,

(*ii*) the age of the accused,

(*iii*) marks of injury, if any, on the person of the accused, and

(*iv*) other material particulars in reasonable detail.

(*3*) The report shall state precisely the reasons for each conclusion arrived at.

(*4*) The exact time of commencement and completion of the examination shall also be noted in the report.

(*5*) The registered medical practitioner shall, without delay, forward the report to the investigating officer, who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (*a*) of sub-section (*5*) of that section.".

Amendment of section 54

**11.** Section 54 of the principal Act shall be renumbered as sub-section (*1*) thereof, and after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) Where an examination is made under sub-section (*1*), a copy of the report of such examination shall, on a request being made by the arrested person or by any person nominated by him in this behalf, be furnished by the registered medical practitioner to the arrested person or the person so nominated.".

**12.** After section 54 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 54A.

"54A. Where a person is arrested on a charge of committing an offence and his identification by any other person or persons is considered necessary for the purpose of investigation of such offence, the Court, having jurisdiction, may, on the request of the officer in charge of a police station, direct the person so arrested to subject himself to identification by any person or persons in such manner as the Court may deem fit.". Identification of person arrested.

**13.** In section 82 of the principal Act, after sub-section (*3*), the following sub-sections shall be inserted, namely:— Amendment of section 82.

"(*4*) Where a proclamation published under sub-section (*1*) is in respect of a person accused of an offence punishable under section 302, 304, 364, 367, 382, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 436, 449, 459 or 460 of the Indian Penal Code, and such person fails to appear at the specified place and time required by the proclamation, the Court may after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect. 45 of 1860.

(*5*) The provisions of sub-sections (*2*) and (*3*) shall apply to a declaration made by the Court under sub-section (*4*) as they apply to the proclamation published under sub-section (*1*).".

**14.** In section 102 of the principal Act,— Amendment of section 102.

(*a*) in sub-section (*3*), after the words "transported to the Court", the words "or where there is difficulty in securing proper accommodation for the custody of such property, or where the continued retention of the property in police custody may not be considered necessary for the purpose of investigation" shall be inserted;

(*b*) after sub-section (*3*), the following proviso shall be added at the end, namely:—

"Provided that where the property seized under sub-section (*1*) is subject to speedy and natural decay and if the person entitled to the possession of such property is unknown or absent and the value of such property is less than five hundred rupees it may forthwith be sold by auction under the orders of the Superintendent of Police and the provisions of sections 457 and 458 shall, as nearly as may be practicable apply to the net proceeds of such sale.".

**15.** In section 110 of the principal Act, in clause (*f*) in sub-clause (*i*),— Amendment of section 110.

(*i*) in item (*g*), the word "or" shall be omitted;

(*ii*) after item (*g*), the following item shall be substituted, namely:—

"(*h*) the Foreigners Act, 1946; or". 31 of 1946.

Amendment of section 122.

16. In section 122 of the principal Act, in sub-section (*1*), in clause (*b*), for the words "bond without sureties", the words "bond, with or without sureties," shall be substituted.

Amendment of section 125.

17. In section 125 of the principal Act, in sub-section (*1*), in sub-clause (*b*), for the words "five hundred rupees", the words "one thousand five hundred rupees" shall be substituted.

Insertion of new section 144A.

18. In Chapter X of the principal Act, under sub-heading "*C.—Urgent cases of nuisance or apprehended danger*", after section 144, the following section shall be inserted, namely:—

Power to prohibit carrying arms in procession or mass drill or mass training with arms.

'144A. (*1*) The District Magistrate may, whenever he considers it necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by public notice or by order, prohibit in any area within the local limits of his jurisdiction, the carrying of arms in any procession or the organising or holding of, or taking part in, any mass drill or mass training with arms in any public place.

(*2*) A public notice issued or an order made under this section may be directed to a particular person or to persons belonging to any community, party or organisation.

(*3*) No public notice issued or an order made under this section shall remain in force for more than three months from the date on which it is issued or made.

(*4*) The State Government may, if it considers necessary so to do for the preservation of public peace or public safety or for the maintenance of public order, by notification, direct that a public notice issued or order made by the District Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which such public notice or order was issued or made by the District Magistrate would have, but for such direction, expired, as it may specify in the said notification.

(*5*) The State Government may, subject to such control and directions as it may deem fit to impose, by general or special order, delegate its powers under sub-section (*4*) to the District Magistrate.

*Explanation.*—The word "arms" shall have the meaning assigned to it in section 153AA of the Indian Penal Code.'. 45 of 1960.

Insertion of new section 144A.

19. After section 164 of the principal Act, the following section shall be inserted, namely:—

Medical examination of the victim of rape.

'164A. (*1*) Where, during the stage when an offence of committing rape or attempt to commit rape is under investigation, it is proposed to get the person of the woman with whom rape is alleged or attempted to have been committed or attempted, examined by a medical expert, such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner, with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be forwarded to such registered medical practitioner without delay.

(2) The registered medical practitioner, to whom such woman is forwarded, shall, without delay, examine her person and prepare a report of his examination giving the following particulars, namely:—

(*i*) the name and address of the woman and of the person by whom she was brought;

(*ii*) the age of the woman;

(*iii*) whether the woman was previously used to sexual intercourse;

(*iv*) marks of injury, if any, on the person of the woman;

(*v*) general mental condition of the woman; and

(*vi*) other material particulars in reasonable detail.

(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examination had been obtained.

(5) The exact time of commencement and completion of the examination shall also be noted in the report.

(6) The registered medical practitioner shall, without delay, forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 173 as part of the documents referred to in clause (*a*) of sub-section (5) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the woman or of any person competent to give such consent on her behalf.

*Explanation.*—For the purposes of this section, "examination" and "registered medical practitioner" shall have the same meanings as in section 53.'.

Amendment of section 173.

20. In section 173 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Where in respect of any offence compoundable under section 320, the person by whom the offence may be compounded under the said section gives, in the course of investigation a report in writing to the officer in charge of the police station expressing his desire to compound the offence as provided for in the said section, such officer shall mention this fact in the police report under sub-section (2) and forward it to the Magistrate who shall thereupon deal with the case under section 320 as though the prosecution for the offence concerned had been launched before that Magistrate.".

Amendment of section 176.

21. In section 176 of the principal Act,—

(*i*) in sub-section (1), the words "where any person dies while in the custody of the police or" shall be omitted;

(*ii*) after sub-section (1), the following sub-section shall be inserted, namely:—

"(*1A*) Where,—

(*a*) any person dies or disappears, or

(*b*) rape is alleged to have been committed on any woman,

while such person or woman is in the custody of the police, in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed.";

(*iii*) after sub-section (*4*), before the *Explanation*, the following sub-section shall be inserted, namely:—

"(5) The Judicial Magistrate or the Metropolitan Magistrate or Executive Magistrate or police officer holding an inquiry or investigation, as the case may be, under sub-section (*1A*) shall, within twenty-four hours of the death of a person, forward the body with a view to its being examined to the nearest Civil Surgeon or other qualified medical man appointed in this behalf by the State Government, unless it is not possible to do so for reasons to be recorded in writing.".

Amendment of section 190.

**22.** In section 190 of the principal Act, to sub-section (*1*), the following proviso shall be added, namely:—

"Provided that where it is not possible for a Magistrate to take cognizance of an offence under clause (*b*), he shall, after recording reasons therefor, authorise the detention of the accused person otherwise than in the custody of the police, for a period not exceeding seven days.".

Amendment of section 197.

**23.** In section 197 of the principal Act, in sub-section (*3*), after the words "members of the Forces", the words "or to such other public servants" shall be inserted.

Amendment of section 202.

**24.** In section 202 of the principal Act, in sub-section (*1*), after the words "may, if he thinks fit,", the following shall be inserted, namely:—

"and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction,".

Amendment of section 206.

**25.** In section 206 of the principal Act, in sub-section (*1*),—

(*a*) in the opening paragraph, after the words and figures "under section 260", the words and figures "or section 261" shall be inserted;

(*b*) in the proviso, for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

Amendment of section 223.

**26.** In section 223 of the principal Act, in the proviso,—

(*a*) for the word "Magistrate", the words "Magistrate or Court of Session" shall be substituted;

(*b*) for the words "if he is satisfied", the words "if he or it is satisfied" shall be substituted.

Amendment of section 228.

27. In section 228 of the principal Act, in sub-section (*1*), in clause (*a*), for the words "and thereupon the Chief Judicial Magistrate", the words "or any other Judicial Magistrate of the first class and direct the accused to appear before the Chief Judicial Magistrate, or, as the case may be, the Judicial Magistrate of the first class, on such date as he deems fit and thereupon such Magistrate" shall be substituted

Amendment of section 260.

**28.** In section 260 of the principal Act, in sub-section (*1*),—

(*a*) for the words "two hundred rupees", wherever they occur, the words "two thousand rupees" shall be substituted;

(*b*) in clause (*vi*), for the words "criminal intimidation", the words "criminal intimidation punishable with imprisonment for a term which may extend to two years, or with fine, or with both" shall be substituted.

Insertion of new section 291A.

Identification report of Magistrate.

**29.** After section 291 of the principal Act, the following section shall be inserted, namely:—

"291A. (*1*) Any document purporting to be a report of identification under the hand of an Executive Magistrate in respect of a person or property may be used as evidence in any inquiry, trial or other proceeding under this Code, although such Magistrate is not called as a witness:

Provided that where such report contains a statement of any suspect or witness to which the provisions of section 21, section 32, section 33, section 155 or section 157, as the case may be, of the Indian Evidence Act, 1872, apply, such statement shall not be used under this sub-section except in accordance with the provisions of those sections.

45 of 1872.

(*2*) The Court may, if it thinks fit, and shall, on the application of the prosecution or of the accused, summon and examine such Magistrate as to the subject matter of the said report.".

Amendment of section 292.

**30.** In section 292 of the principal Act,—

(*a*) in sub-section (*1*), after the words "the Mint", the words "or of the Currency Note Press or of the Bank Note Press or of the Security Printing Press" shall be inserted;

(*b*) in sub-section (*3*), for the words "the Master of the Mint, or the India Security Press", the words "the General Manager of the Mint or of the Currency Note Press or of the Bank Note Press or of the Security Printing Press or of the India Security Press" shall be substituted.

Amendment of section 293.

31. In section 293 of the principal Act, in sub-section (4),—

(a) for clause (b), the following clause shall be substituted, namely:—

"(b) the Chief Controller of Explosives;";

(b) after clause (f), the following clause shall be added, namely:—

"(g) any other Government scientific Expert specified by notification by the Central Government for this purpose.".

Insertion of new section 311A.

32. After section 311 of the principal Act, the following section shall be inserted, namely:—

Power of Magistrate to order person to give specimen signatures or handwriting.

"311A. If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:

Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.".

Amendment of section 320.

33. In section 320 of the principal Act, in the Table under sub-section (2),—

(a) the words "Voluntarily causing hurt by dangerous weapons or means" in column 1 and the entries relating thereto in columns 2 and 3 shall be omitted;

(b) in column 3, for the word "Ditto", against the entry relating to section 325, the words "The person to whom the hurt is caused" shall be substituted;

(c) in column 1, for the words "two hundred and fifty rupees", wherever they occur, the words "two thousand rupees" shall be substituted.

Amendment of section 356.

34. In section 356 of the principal Act, in sub-section (1),—

(a) after the words, figures and letter "or section 489D" the words, figures and brackets "or section 506 (in so far as it relates to criminal intimidation punishable with imprisonment for a term which may extend to seven years or with fine or with both)" shall be inserted;

(b) after the words and figures "Chapter XII", the words and figures "or Chapter XVI" shall be inserted.

Amendment of section 358.

35. In section 358 of the principal Act, in sub-sections (1) and (2), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

Amendment of section 377.

**36.** In section 377 of the principal Act,—

(*a*) in sub-sections (*1*) and (*2*), for the words "an appeal to the High Court against the sentence on the ground of its inadequacy", the following shall be substituted, namely:—

"an appeal against the sentence on the ground of its inadequacy—

(*a*) to the Court of Session, if the sentence is passed by the Magistrate; and

(*b*) to the High Court, if the sentence is passed by any other Court";

(*b*) in sub-section (*3*), for the words "the High Court", the words "the Court of Session or, as the case may be, the High Court" shall be substituted.

Amendment of section 378.

**37.** In section 378 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Save as otherwise provided in sub-section (*2*), and subject to the provisions of sub-sections (*3*) and (*5*),—

(*a*) the District Magistrate may, in any case, direct the Public Prosecutor to present an appeal to the Court of Session from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(*b*) the State Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (*c*)] or an order of acquittal passed by the Court of Session in revision.";

(*ii*) in sub-section (*2*), for the portion beginning with the words "the Central Government may" and ending with the words "the order of acquittal", the following shall be substituted, namely:—

"the Central Government may, subject to the provisions of sub-section (*3*), also direct the Public Prosecutor to present an appeal—

(*a*) to the Court of Session, from an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence;

(*b*) to the High Court, from an original or appellate order of an acquittal passed by any Court other than a High Court [not being an order under clause (*c*)] or an order of acquittal passed by the Court of Session in revision";

(*iii*) in sub-section (*3*), for the words "No appeal", the words "No appeal to the High Court" shall be substituted.

Amendment of section 389.

**38.** In section 389 of the principal Act, to sub-section (1), the following provisos shall be added, namely:—

"Provided that the Appellate Court shall, before releasing on bail or on his own bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release:

Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.".

Amendment of section 428.

**39.** To section 428 of the principal Act, the following proviso shall be added, namely:—

"Provided that in cases referred to in section 433A, such period of detention shall be set off against the period of fourteen years referred to in that section.".

Amendment of section 436.

**40.** In section 436 of the principal Act, in sub-section (*1*),—

(*a*) in the first proviso, for the words "may, instead of taking bail", the words "may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail" shall be substituted;

(*b*) after the first proviso, the following *Explanation* shall be inserted, namely:—

"*Explanation.*—Where a person is unable to give bail within a week of the date of his arrest, it shall be a sufficient ground for the officer or the Court to presume that he is an indigent person for the purposes of this proviso.".

Insertion of new section 436A.

**41.** After section 436 of the principal Act, the following section shall be inserted, namely:—

Maximum period for which an under trial prisoner can be detained.

"436A. Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:

Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:

Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

*Explanation.*—In computing the period of detention under this section for granting bail the period of detention passed due to delay in proceeding caused by the accused shall be excluded.".

Amendment of section 437.

42. In section 437 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) in clause (*ii*), for the words "a non-bailable and cognizable offence", the words "a cognizable offence punishable with imprisonment for three years or more but not less than seven years" shall be substituted;

(*b*) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that no person shall, if the offence alleged to have been committed by him is punishable with death, imprisonment for life, or imprisonment for seven years or more, be released on bail by the Court under this sub-section without giving an opportunity of hearing to the Public Prosecutor.";

(*ii*) in sub-section (*3*), for the portion beginning with the words "the Court may impose", and ending with the words "the interests of justice" the following shall be substituted, namely:—

"the Court shall impose the conditions,—

(*a*) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(*b*) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(*c*) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence,

and may also impose, in the interests of justice, such other conditions as it considers necessary.".

Amendment of section 438.

43. In section 438 of the principal Act, for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, *inter alia*, the following factors, namely:—

(*i*) the nature and gravity of the accusation;

(*ii*) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

(*iii*) the possibility of the applicant to flee from justice; and

(*iv*) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,

either reject the application forthwith or issue an interim order for the grant of anticipatory bail:

Provided that, where the High Court or, as the case may be, the Court of Session, has not passed any interim order under this sub-section or has rejected the application for grant of anticipatory bail, it shall be open to an officer in-charge of a police station to arrest, without warrant the applicant on the basis of the accusation apprehended in such application.

(*1A*) Where the Court grants an interim order under sub-section (*1*), it shall forthwith cause a notice being not less than seven days, notice, together with a copy of such order to be served on the Public Prosecutor and the Superintendent of Police, with a view to give the Public Prosecutor a reasonable opportunity of being heard when the application shall be finally heard by the Court.

(*1B*) The presence of the applicant seeking anticipatory bail shall be obligatory at the time of final hearing of the application and passing of final order by the Court, if on an application made to it by the Public Prosecutor, the Court considers such presence necessary in the interest of justice.".

Insertion of new section 441A.

44. After section 441 of the principal Act, the following section shall be inserted namely:—

Declaration by sureties.

"441A. Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars.".

Amendment of section 446.

45. In section 446 of the principal Act, in sub-section (3), for the words "at its discretion", the words "after recording its reasons for doing so" shall be substituted.

Amendment of section 459.

46. In section 459 of the principal Act, for the words "less than ten rupees", the words "less than five hundred rupees" shall be substituted.

Amendment of the First Schedule.

47. In the First Schedule to the principal Act, under the heading 'I—OFFENCES UNDER THE INDIAN PENAL CODE",—

(*a*) after the entries relating to section 153A, the following entries shall be inserted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| "153AA | Knowingly carrying arms in any procession or organising or holding or taking part in any mass drill or mass training with arms. | Imprisonment for 6 months and fine of 2,000 rupees | Ditto. | Ditto. | Any Magistrate."; |

(*b*) in the 6th column, in the entries relating to section 153B, for the word "Ditto", the words "Magistrate of the first class" shall be substituted,

(*c*) after the entries relating to section 174, the following entries shall be inserted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| "174A | Failure to appear at specified place and specified time as required by a proclamation published under sub-section (1) of section 82 of this Code. | Imprisonment for 3 years or with fine or with both | Cognizable | Non-bailable | Magistrate of the first class. |
| | In case where declaration has been made under sub-section (4) of section 82 of this Code pronouncing a person as proclaimed offender. | Imprisonment for 7 years and fine | Ditto | Ditto. | Ditto."; |

(*d*) in the entries relating to section 175,—

(*i*) in the 4th column, for the word "Ditto", the word "Non-cognizable"; and

(*ii*) in the 5th Column, for the word "Ditto", the word "Bailable",

shall be substituted;

(*e*) after the entries relating to section 229, the following entries shall be inserted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| "229A | Failure by person released on bail or bond to appear in Court. | Imprisonment for 1 year, or fine or both | Cognizable | Non-bailable | Any Magistrate."; |

(*f*) in the 5th column, in the enties relating to,—

(*i*) section 274, for the word "Ditto", the word "Non-bailable" shall be substituted;

(*ii*) section 275, for the word "Ditto", the word "Bailable" shall be substituted;

(*iii*) section 324, for the word "Ditto", the word "Non-bailable" shall be substituted;

(*iv*) section 325, for the word "Ditto", the word "Bailable" shall be substituted;

(*v*) section 332, for the word "Bailable", the word "Ditto" shall be substituted;

(*vi*) section 333, for the word "Non-bailable", the word "Ditto" shall be substituted;

(*vii*) section 353, for the word "Ditto", the word "Non-bailable" shall be substituted;

(*viii*) section 354, for the word "Ditto", the word "Bailable" shall be substituted.

Amendment of the Second Schedule.

**48.** In the Second Schedule to the principal Act, in Form No. 45, after the words and figures "*See* section 436", the figures and letter "436A" shall be inserted.

Amendment of Act 45 of 1860.

**49.** In the Indian Penal Code,—

(*a*) after section 153A, the following section shall be inserted, namely:—

Punishment for knowingly carrying arms in any procession or organising, or holding or taking part in any mass drill or mass training with arms.

'153AA. Whoever knowingly carries arms in any procession or organizes or holds or takes part in any mass drill or mass training with arms in any public place in contravention of any public notice or order issued or made under section 144A of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to two thousand rupees. 2 of 1974.

*Explanation.*—"Arms" means articles of any description designed or adapted as weapons for offence or defence and includes fire arms, sharp edged weapons, lathis, *dondas* and sticks.';

(*b*) after section 174, the following section shall be inserted, namely:—

Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.

"174A. Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (*1*) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub-section (*4*) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.";

(*c*) after section 229, the following section shall be inserted, namely:—

Failure by person released on bail or bond to appear in Court.

"229A. Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in Court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

*Explanation.*—The punishment under this section is—

(*a*) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and

(*b*) without prejudice to the power of the Court to order forfeiture of the bond.".

## STATEMENT OF OBJECTS AND REASONS

Having regard to the recommendations made by the Law Commission and the National Police Commission, the observations made by the courts and the suggestions received from the State Governments and others, and with a view to removing certain difficulties or lacunae felt in its working, it has been found necessary to amend various sections of the Code of Criminal Procedure, 1973.

2. The Notes on clauses explain, in brief, the various provisions of the Bill.

3. The Bill seeks to achieve the above objects.

S. B. CHAVAN.

*Notes on clauses*

*Clause* 2.—This clause seeks to insert sub-section (4A) in section 20 to enable the State Government to delegate its powers to the District Magistrates for the purposes of placing the Executive Magistrates in charge of a sub-division.

*Clause* 3.—This clause seeks to amend sub-section (6) of section 24 to clarify the expressions "regular Cadre of Prosecuting Officers" and "Prosecuting Officer".

*Clause* 4.— This clause seeks to insert a new section 25A empowering the State Government to establish the Directorate of Prosecution. The Director of Prosecution shall function under the administrative control of the Head of the Home Department in the State.

*Clause* 5.—This clause seeks to amend section 29 of the Code to enhance the sentencing power of the Magistrate of the First Class to impose fine from five thousand rupees up to twenty-five thousand rupees and Magistrate of the Second Class from one thousand rupees up to five thousand rupees. This is being proposed keeping in view the depreciation of the value of the rupee since 1973 and to make the provision more deterrent.

*Clause* 6.—Sub-section (2) of section 45 of the Code gives protection from arrest to members of the Armed Forces charged with the maintenance of public order. This clause seeks to extend similar protection to such other public servants as are charged with the maintenance of public order as they also have to face similar difficulties.

*Clause* 7.—This clause seeks to amend section 46 to empower the police officer concerned to use all means necessary to effect the arrest, including causing death, in the case of proclaimed offender under sub-section (4) of section 82. A new sub-section (4) is being added to said section 46 to prohibit arrest of a woman after sunset and before sunrise except in unavoidable circumstances.

*Clause* 8.—This clause seeks to insert a new section 50A to require the police to give information about the arrest of the person as well as the place where he is being held to any one who may be nominated by him for sending such information.

*Clause* 9.—This clause seeks to insert an *Explanation* to section 53 to explain the meaning of the expressions "examination" and "registered medical practitioner" appearing in sections 52, 53A and 54.

*Clause* 10.—This clause seeks to insert a new section 53A to provide for a detailed medical examination of a person accused of an offence of rape or an attempt to commit rape by the registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner by any other registered medical practitioner.

*Clause* 11.—The proposed amendment to section 54 is intended to provide that a copy of the report of the medical examination of the arrested person should also be furnished by the registered medical practitioner to the arrested person or his nominee, after his medical examination has been conducted.

*Clause* 12.—This clause seeks to insert a new section 54A to empower the Court to direct specifically the holding of the identification of the arrested person at the request of the prosecution.

*Clause* 13.—This clause seeks to insert new sub-sections (4) and (5) in section 82 empowering the Court to make the declaration that the person is a proclaimed offender where he fails to appear at the specified place and time mentioned in the proclamation issued under sub-section (*1*) of section 82 in relation to offences under sections 302, 304, 364, etc., of the Indian Penal Code.

*Clause* 14.—The proposed amendment to sub-section (*3*) of section 102 is intended to give greater discretion to the police for releasing seized property, where there is difficulty in securing proper accommodation for the custody of property or where the continued retention of the property in police custody is not considered necessary for the purposes of investigation.

It is also proposed that if the seized property is of perishable nature and value of such property is less than five hundred rupees and if the person entitled to the possession of such property is unknown or absent, the police be empowered to sell such property by auction under the orders of the Superintendent of Police. For this purpose a proviso is being inserted to sub-section (3) of section 102 of the Code.

*Clause* 15.—In order to effectively deal with offences under the Foreigners Act, 1946 a need has been felt to strengthen the hands of State authorities by empowering them to take action under section 110 of the Code against persons assisting infiltration. This will help to check the flow of undersirable foreigners into the country. The Foreigners Act, 1946 is, accordingly, being added as item (h) of sub-clause (i) of clause (*f*).

*Clause* 16.—This clause seeks to amend sub-section (1) of section 122 to remove the discrepancy between section 107(1) and section 122(1) (b) of the Code.

*Clause* 17.—On the recommendations made by the Chief Justices' Conference and in view of the depreciation in the value of money, it is proposed to amend section 125 of the Code to enhance the maximum limit for payment of maintenance from five hundred rupees to one thousand five hundred rupees.

*Clause* 18.—In order to curb the militant activities of certain communal organisations, a need has been felt to strengthen the hands of State authorities for effectively checking communal tension and foster a sense of complete security in the minds of members of the public. This clause, therefore, seeks to insert a new section 144A in the Code to enable the District Magistrate to prohibit mass drill (or training) with arms in public places.

*Clause* 19.—This clause seeks to insert new section 164A in the Code to provide for a medical examination of the victim of a rape by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner by any other registered medical practitioner.

Clause 20.—A new sub-section (*3A*) is being added to section 173 to enable the police to take note of the desire of the parties to compound offences compoundable under section 320 even at the stage of investigation. This is intended to help quicker disposal of cases of compoundable category and to reduce the work load of the police.

*Clause* 21.—Section 176 is being amended to provide that in the case of death or disappearance of a person, or rape of a woman while in the custody of the police, there shall be a mandatory judicial inquiry and in case of death, examination of the dead body shall be conducted within twenty-four hours of death.

*Clause* 22.—The Patna High Court in 1977 in *Ramdeo Mahto's* case (1977 Bihar L.J.R. 498) observed that there is a lacuna in the Code as there is no provision therein which enables a Magistrate to pass an order of remand after submission of the police report under section 173(2) and before taking cognizance of the offence disclosed by the police report under section 190. This clause therefore seeks to insert a proviso to sub-section (*1*) of section 190 of the Code to empower a Magistrate to authorise further detention in custody of an accused person, for a period not exceeding a week, after recording reasons therefor.

*Clause* 23.—Section 197(3) gives protection to the members of the Armed Forces charged with the maintenance of public order in the matter of prosecution in respect of offences alleged to have been committed while acting or purporting to act in the discharge of their duties. This clause seeks to amend sub-section (3) to extend similar protection to other public servants, charged with the maintenance of pubilc order, as they have also to face similar difficulties.

*Clause* 24.—False complaints are filed against persons residing at far off places simply to harass them. In order to see that innocent persons are not harassed by unscrupulous persons, this clause seeks to amend sub-section (1) of section 202 to make it obligatory upon the Magistrate that before summoning the accused residing beyond his jurisdiction he shall enquire into the case himself or direct investigation to be made by a police officer or by such other person as he thinks fit, for finding out whether or not there was sufficient ground for proceeding against the accused.

*Clause* 25.—The provisions of section 206 are meant to enable a quick disposal of petty cases and to reduce congestion in the Court of Magistrates. Since the value of the money has gone down considerably, this clause seeks to amend sub-section (1) of that section to raise the limit of fine that can be specified in the summons from one hundred rupees to one thousand rupees.

*Clause* 26.—The proviso to section 223 provides that the Magistrate on an application of the accused persons may direct their joint trial even if they do not fall in the categories specified, if he is satisfied that such

persons would not be prejudicially affected thereby. In the interest of prompt disposal of cases, scope of this proviso is being widened to enable the Court of Session also to hold such trials.

*Clause* 27.—Under section 228, a Session Judge can transfer a case only to the Chief Judicial Magistrate. The proposed amendment seeks to give discretion to the Sessions Judge to transfer a case either to the Chief Judicial Magistrate or to any other Judicial Magistrate of the First Class and to fix a date for the appearance of the accused before the Chief Judicial Magistrate or the Judicial Magistrate, as the case may be, so that a lot of time, which is wasted in summoning the accused by the Magistrate, may be saved.

*Clause* 28.—Under sub-section (1) of section 260 a Magistrate has a discretion to try offences specified therein either summarily or in a regular way. It is also proposed to provide that the offence of theft and other cognate offences, namely, offences under sections 379, 380, 381, 411 and 414 of the Indian Penal Code may be tried summarily where the value of the property involved does not exceed two thousand rupees instead of two hundred rupees at present.

*Clause* 29.—Under the existing provisions of the Code an identification memo is required to be proved in the Court by examination of the Magistrate, who conducted the proceedings. These facts are generally not disputed. In order to save time of the Court, a new section 291A is being inserted with a view to making memorandum of identification prepared by the Magistrate admissible in evidence without formal proof of facts stated therein with a provision that the Court may, if it thinks fit, on the application of the prosecution or the accused, summon or examine the Magistrate as to the subject matter contained in the memorandum of identification.

*Clause* 30.—This clause seeks to amend section 292 of the Code to cover the specified officers of the Currency Note Press, the Bank Note Press and the Security Printing Press, like other specified officers of the Mint and the India Security Press and also makes certain other consequential changes.

*Clause* 31.—The designation "the Chief Inspector of Explosives" appearing in the Indian Explosives Act, 1884 has been changed to "the Chief Controller of Explosives" by the Indian Explosives (Amendment) Act, 1978. The opportunity has therefore been taken to make the consequential amendment to section 293 where the expression "the Chief Inspector of Explosives" occurs.

*Clause* 32.—The Supreme Court in *State of U.P.* Vs. *Ram Babu Mishra* (AIR 1980 S.C. 791) suggested that a suitable legislation be made on the analogy of section 5 of the Identification of Prisoners Act, 1980, to provide for the investiture of Magistrates with powers to issue directions to any person including an accused person to give specimen signatures and handwriting. A new section 311A is accordingly being inserted in the Code.

*Clause* 33.—Sub-clause (a) seeks to amend the Table appended to sub-section (2) of section 320 of the Code so as to make the offence under section 324 of the Indian Penal Code, a non-compoundable offence.

Sub-clause (c) seeks to amend the said Table so as to enhance the value of the property mentioned in respect of sections 379, 381, 406, 407, 408, 411 and 414 of the Indian Penal Code to two thousand rupees instead of two hundred and fifty rupees since the value of money has gone down considerably.

*Clause* 34.—In order to curb the goonda menace, sub-section (1) of section 356 of the Code is being amended to bring within its ambit all offences in Chapter XVI of the Indian Penal Code (offences affecting the human body) punishable with imprisonment for three years or more as well as the aggravated form of offence under section 506 (criminal intimidation punishable with imprisonment for a term which may extend to seven years, or with fine, or with both).

*Clause* 35.—This clause seeks to amend section 358 of the Code to enhance the limit of fine of one hundred rupees to one thousand rupees so as to make this provision more effective.

*Clause* 36.—Section 377 is being amended so as to permit the filing of an appeal in the Court of Session instead of the High Court on the ground of inadequacy of sentence passed by a Magistrate. This amendment is intended not only to make it easier for the administration to prefer appeals against unduly lenient sentences by Magistrates but will also deter the latter from passing sentence that are grossly inadequate.

*Clause* 37.—In order to guard against the arbitrary exercise of power and to reduce reckless acquittals, section 378 is being amended to provide that an appeal against an order of acquittal passed by a Magistrate in respect of a cognizable and non-bailable offence filed on a police report would lie to the Court of Session, and the District Magistrate will be authorised to direct the Public Prosecutor to file such appeals. In respect of all other cases filed on a police report, on appeal against an order of acquittal passed by any court other than the High Court should lie only to the High Court and the authority to direct the Public Prosecutor to present an appeal shall continue to be with the State Government.

*Clause* 38.—This clause adds two provisos to sub-section (1) of section 389 of the Code to the effect that (i) the Appellate Court will give notice to the prosecution before releasing a convicted person on bail, if he was convicted of an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years; and (ii) the prosecution should be permitted to move an application for cancellation of bail granted by the Appellate Court.

*Clause* 39.—The provision of section 433A adversely affects the reformation of lifer, whose case inspite of good conduct in jail cannot be referred to the Advisory Board for recommending his premature release to the State Government, unless he has completed 14 years of actual imprisonment. Proposed amendment to section 428 is intended to provide that the period for which the life convict remained in detention during investigation, inquiry or trial shall be set off against the period of 14 years of actual imprisonment prescribed in section 433A.

*Clause* 40.—In respect of bailable offences, a person has to remain in jail for his inability to furnish bail, till the case is disposed of Session 436(1) is, therefore, being amended to make a mandatory provision that if the arrested person is accused of a bailable offence and he is an indigent and cannot furnish surety, the Court shall release him on his execution of a bond without sureties.

*Clause* 41.—There had been instances, where under trail prisoners were detained in jail for periods beyond the maximum period of imprisonment provided for the alleged offence. A new section 436A is being inserted in the Code to provide that where an under-trial prisoner other than the one accused of an offence for which death has been prescribed as one of the punishments, has been under detention for a period extending to one-half of the maximum period of imprisonment provided for the alleged offence, he should be released on his personal bond, with or withouts sureties.

It is also proposed to provide that in no case will an under-trial prisoner be detained beyond the maximum period of imprisonment for which he can be convicted for the alleged offence.

*Clause* 42.—This clause seeks to amend section 437 to provide that if a person commits a cognizable and non-bailable offence, and he has previously been convicted on two or more occasions of a cognizable offence punishable with imprisonment for 3 years or more but not less than 7 years, he shall not be released except in the circumstances specified in the provision.

It is further provided that if an accused appears before the Court while in juudicial custody and prays for bail, or a prayer for bail is made on his behalf, the court shall grant bail only after giving an opportunity of hearing to the prosecution, if the offence alleged to have been committed by the accused is punishable with death, imprisonment for life or imprisonment for not less than 7 years.

Under sub-section (3) of section 437 of the Code, the Court has got the discretion to impose certain conditions for the grant of bail. Under section 441(2), here any condition is imposed for the release of a person on bail, the bond shall contain that condition also. In order to make the provision stringent and to see that the person on bail does not interfere or intimidate witness, sub-section (3) is being amended to specify certain conditions, which are mandatory.

*Clause* 43.—Section 438 is being amended to the effect that (i) the power to grant anticipatory bail should be exercised by the court of session or High Court after taking into consideration certain circumstances; (ii) if the Court does not reject the application for the grant of anticipatory bail, and makes an interim order of bail, it should, forthwith give notice to the Public Prosecutor and Superintendent of Police and the question of bail would be re-examined in the light of the respective contentions of the parties; and (iii) the presence of the person seeking anticipatory bail in the Court should be made mandatory at the time of hearing of the application for the grant of anticipatory bail subject to certain exceptions.

Clause 44.—This clause seeks to insert a new section 441A which provides that a person standing surety for an accused person shall disclose as to in how many cases he has already stood surety for accused persons.

*Clause* 45.—Under sub-section (1) of section 446, where a bond for appearance before a Court is forfeited the Court records the grounds of such proof and calls upon persons bound by such bond to pay a penalty thereof or to show cause why it should not be paid. The Court, however, has a discretion to remit any portion of the penalty and enforce payment in part only. In order to see tha such a penalty is rest reduced liberally, sub-section (3) of section 446 is being amended to provide that the Court shall record reasons before reducing the penalty.

*Clause* 46.—This clause seeks to make a consequential amendment in section 459 of the Code. A new proviso which is being added in sub-section (3) of section 102 of the Code seeks to empower the police to sell perishable property up to a value of five hundred rupees. As per the existing provisions of section 459 the Magistrate is empowered to sell perishable property of the value of less than ten rupees only. As a result police has been given concurrent jurisdiction in the matter with the Magistrate.

*Clause* 47—Entries relating to sections 153AA, 174A and 229A to be inserted in the Indian Penal Code, as indicated in clause 54 have to be incorporated in the First Schedule to the Code. The amendments are consequential.

The offence under section 324 of the Indian Penal Code, *i.e.*, voluntarily causing hurt by dangerous weapons or means is at present bailable. Since the offender is immediately released on bail, the chances of recovering the weapon of offence are remote; therefore, the First Schedule appended to the Code, is being amended to classify the offence as non-bailable.

The offences under sections 274 (Adulteration of drugs), 332 (voluntarily causing hurt to deter public servant from his duty) and 353 (assault or criminal force to deter public servant from discharging his duty) of the Indian Penal Code are at present bailable. In order to deal with these offences effectively, the First Schedule to the Code is being amended to classify offences under sections 274, 332 and 353 of the Indian Penal Code as non-bailable.

*Clause* 48.—Form No. 45 in the Second Schedule to the Code is being amended as a consequence of insertion of a new section 436A by clause 47, providing for release of the person undergoing detention during investigation, etc., on a personal bond with or without sureties.

*Clause* 49.—This clause amends the Indian Penal Code as follows, namely:—

(a) clause 19 is intended to enable the District Magistrate to prohibit mass drill (or training) with arms in public places. A new section 153AA is therefore being added to the Indian Penal Code to

prescribe punishment with imprisonment up to six months and fine up to two thousand rupees for the contravention of the prohibitory order;

(b) clause 16 seeks to insert new sub-sections (4) and (5) in section 82 of the Code to provide for the declaration of a person as proclaimed offender, if he fails to appear inspite of the proclamation published under sub-section (1) of that section. In order to curb the tendency on the part of criminals not to attend the court in response to proclamation published under sub-section (1) or further proclamation issued under sub-section (4) declaring the accused as "Proclaimed Offender" a new section 174A is being added to the Indian Penal Code to prescribe punishment for such offender;

(c) under clause 50 an obligation is cast on the person released on bail or on bond to appear and surrender to custody. In order to enforce this obligation, a new section 229A is being inserted in the Indian Penal Code to prescribe punishment for those who fail to do so.

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of a Directorate of Prosecution consisting of a Director of Prosecution and Deputy Directors of Prosecution below him. This provision would enable the State Governments and Union territories to set up Directorates of Prosecution, when it is considered necessary to establish such a Directorate. The additional expenditure if such a Directorate is established, will be in regard to creation of the posts of Director and Deputy Directors only as the Public Prosecutors and Assistant Public Prosecutors would already be in position to conduct cases. The appointment of a Director of Prosecution and Deputy Directors of Prosecution will generally be made from amongst the departmental officers. The State Governments themselves would bear the expenditure involved in the creation of Directorates of Prosecution in the States. The Central Government would have to bear the expenditure in respect of the Directorates of Prosecution which may be set up in those Union territories which do not have a consolidated Fund of their own; provision for such expenditure would be made in the appropriate budget for the Union territory concerned as and when it is proposed to set up a Directorate of Prosecution in that Union territory. It is, therefore, not possible to give an estimate of the expenditure involved (recurring or non-recurring) in this behalf at this stage. However, proposals for establishment of such Directorates in Union territories would be processed in consultation with the Ministry of Finance (Department of Expenditure).

II

BILL NO. XXXVII OF 1994

*A Bill further to amend the Institutes of Technology Act, 1961.*

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title and commencement.

**1.** (*1*) This Act may be called the Institutes of Technology (Amendment) Act, 1994.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

59 of 1961.

Amendment of section 2.

**2.** In section 2 of the Institutes of Technology Act, 1961 (hereinafter referred to as the principal Act, after the words "the College of Engineering and Technology, Delhi.", the words "the Indian Institute of Technology, Guwahati, Assam" shall be inserted.

Amendment of section 3.

**3.** In section 3 of the principal Act,—

(*i*) in clause (*c*), after sub-clause (*ia*), the following sub-clause shall be inserted, namely:—

**"(*ib*) in relation to the society known as the Indian Institute of Technology, Guwahati, Assam, the Indian Institute of Technology, Guwahati;";**

(*ii*) in clause (*j*), after sub-clause (*ia*), the following sub-clause shall be inserted, namely:—

"(*ib*) the Indian Institute of Technology Guwahati, Assam;".

Amendment of section 4.

4. In section 4 of the principal Act, after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) The Indian Institute of Technology, Guwahati, Assam shall, on such incorporation, be called the Indian Institute of Technology, Guwahati.".

Amendment of section 5.

5. In section 5 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—The reference in this section to the commencement of this Act shall be construed in relation to the Indian Institute of Technology, Guwahati as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 1994 come into force.".

Amendment of section 38.

6. In section 38 of the principal Act, after clause (*c*), the following shall be added, namely:—

"(*d*) until the first Statutes and the Ordinances in relation to the Indian Institute of Technology, Guwahati are made under this Act, the Statutes and Ordinances of the Indian Institute of Technology, Kharagpur as in force immediately before the commencement of the Institutes of Technology (Amendment) Act, 1994 shall apply to the Indian Institute of Technology, Guwahati with the necessary modification and adaptations in so far as they are not inconsistent with the provisions of this Act.

*Explanation.*—The reference in clause (*a*) of this section to the commencement of this Act shall be constituted in relation to the Indian Institute of Technology, Guwahati as the reference to the date on which the provisions of the Institutes of Technology (Amendment) Act, 1994 come into force.".

## STATEMENT OF OBJECTS AND REASONS

The Institute of Technology Act, 1961 was enacted by Parliament in December, 1961 to declare certain Institutes of Technology to be institutions of national importance. It was amended in September, 1963 to include the College of Engineering and Technology, Delhi as an Indian Institute of Technology under the aforesaid Act.

2. After taking into consideration the aspirations and requirements of people of Assam, the 'Assam Accord' was signed in August, 1985, in which it has been decided, among other things, to set up an Indian Institute of Technology in Assam. The Indian Institute of Technology (Guwahati) Assam Society was registered under the Societies Registration Act, 1860 in February, 1989. Land measuring 708 acres has been acquired by the Society at Guwahati. Various bodies like Board of Governors Finance Committee, Building and Works Committee etc., have also been formed and are functioning.

3. The Bill seeks to further amend the Institutes of Technology Act, 1961 to declare the Indian Institute of Technology, Guwahati, Assam Society as an institution of national importance and the same will thereafter be known as Indian Institute of Technology, Guwahati.

ARJUN SINGH.

## FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for declaring Indian Institute of Technology, Guwahati, Assam Society also as an institute of national importance under the Institutes of Technology Act, 1961. After the amendment of the Act the Institute shall be known as "the Indian Institute of Technology, Guwahati". The total estimated expenditure on Indian Institute of Technology, Guwahati, for VIII Plan would be Rs. 53.10 crores, besides Rs. 11.30 crores incurred between 1987-88 to 1991-92. Out of this, Rs. 55.40 crores would be non-recurring and Rs. 9.00 crores recurring. The project would require additional funds in the subsequent Plans also. The approved allocation for VIII Plan is Rs. 35 crores. The balance amount of Rs. 18.10 crores would be met from the overall Plan savings of the Department of Education.

III

## BILL No. XXXVI OF 1994

*A Bill to establish and incorporate a teaching and residential University in the State of Uttar Pradesh and to provide for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Babasaheb Bhimrao Ambedkar University Act, 1994.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

(a) "Academic Council" means the Academic Council of the University;

(b) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;

(c) "Board of Management" means the Board of Management of the University;

(d) "Board of Studies" means the Board of Studies of the University;

(*e*) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;

(*f*) "College" means a College maintained by the University;

(*g*) "Department" means a Department of Studies; and includes a Centre of Studies;

(*h*) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, correspondence courses, seminars, contact programmes or the combination of any two or more such means;

(*i*) "employee" means any person appointed by the University; and includes teachers and other staff of the University;

(*j*) "Finance Committee" means the Finance Committee of the University;

(*k*) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or of an Institution, maintained by the University;

(*l*) "Institution" means an academic institution, not being a College, maintained by the University;

(*m*) "Planning and Academic Committee" means the Planning and Academic Committee of the University;

(*n*) "Planning Board" means the Planning Board of the University;

(*o*) "Principal" means the Head of a College or an Institution maintained by the University, and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and, in the absence of the Principal or the acting Principal, a Vice-Principal duly appointed as such;

(*p*) "recognised institution" means an institution of higher learning recognised by the University;

(*q*) "recognised teachers" means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution maintained by the University;

(*r*) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(*s*) "School" means a School of Studies of the University;

(*t*) "Statutes" and "Ordinances" mean, respectively, the Statutes and Ordinances of the University for the time being in force;

(*u*) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instruction or conducting research in the University or in any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(*v*) "University" means the Dr. B. R. Ambedkar University established under this Act.

The University.

**3. (*1*) There shall be established a University by the name of "Dr. B. R. Ambedkar University".**

(2) The headquarters of the University shall be at Lucknow and it may also establish campuses at such other places within its jurisdiction as it may deem fit.

(3) The first Vice-Chancellor and the first members of the Board of Management, the Planning and Academic Committee or the Academic Council or the Planning Board and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Dr. B. R. Ambedkar University".

(4) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

Objects of the University.

4. The objects of the University shall be to promote advanced knowledge by providing institutional and research facilities in such branches of learning as it may deem fit; to make provisions for integrated courses in Science and key and frontier areas of Technology and other allied disciplines in the educational programmes of the University; to take appropriate measures for promoting innovations in teaching-learning processes in inter-disciplinary studies and research and pay special attention to the promotion of educational and economic interests and welfare of the people of Uttar Pradesh in general and of members belonging to Scheduled Castes and Scheduled Tribes in particular by providing higher percentage of seats for the Scheduled Castes and the Scheduled Tribes and the University shall, in organising its activities, have due regard to the objects specified in the First Schedule.

5. The University shall have the following powers, namely:—

Powers of the University.

(*i*) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provision for research and for the advancement and dissemination of knowledge;

(*ii*) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing on, persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(*iii*) to organise and to undertake extra-mural studies, training and extension services;

(*iv*) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(*v*) to provide facilities through the distance education system to such persons as it may determine;

(*vi*) to institute Principalships, Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Readerships, Lecturerships or other teaching on academic positions;

(*vii*) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(*viii*) to recognise persons for imparting instructions in any College or Institution maintained by the University;

(*ix*) to appoint persons working in any other University or organisation as teacher of the University for a specified period;

(*x*) to create administrative, ministerial and other posts and to make appointments thereto;

(*xi*) to co-operate or collaborate or associate with any other University or authority or institution of higher learning in such manner and for such purposes as the University may determine;

(*xii*) to establish such campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

(*xiii*) to institute and award fellowships, scholarships, studentships, medals and prizes;

(*xiv*) to establish and maintain Colleges, Institutions and Halls;

(*xv*) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(*xvi*) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(*xvii*) to make special arrangements in respect of the residence discipline and teaching of women students as the University may consider desirable;

(*xviii*) to appoint on contract or otherwise visiting Professors Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(*xix*) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(*xx*) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(*xxi*) to demand and receive payment of fees and other charges;

(*xxii*) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(*xxiii*) to lay down conditions of service of all categories of employees, including their code of conduct;

(*xxiv*) to regulate and enforce discipline among the students and the employees, and to take such disciptinary measures in this regard as may be deemed by the University to be necessary;

(*xxv*) to make arrangements for promoting the health and general welfare of the employees;

(*xxvi*) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of any property, movable or immovable including trust and endowment properties for the purposes of the University;

(*xxvii*) to borrow, with the prior approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(*xxviii*) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

Jurisdiction.

6. The jurisdiction of the University shall extend to the whole of the State of Uttar Pradesh.

University open to all classes, castes and creed.

7. The University shall be open to all persons of either sex and of whatever caste, creed, race, class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or promotion of educational interests of women, physically handicapped or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Residence of students.

8. Every student of the University (other than a student who pursues a course of study by distance education system) shall reside in a Hall or hostel or under such conditions as may be prescribed by the Ordinances.

The Visitor.

9. (*1*) The President of India shall be the Visitor of the University.

(*2*) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions managed by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Board of Management thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories and equipment, and of any College or Institution maintained by the University and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (2), give notice of his intention to cause an inspection or inquiry to be made to the University and the University shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate to the Board of Management the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Board of Management shall communicate, through the Vice-Chancellor, to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(9) Where, the Board of Management does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Board of Management, issue such directions as he may think fit and the Board of Management shall comply with such directions.

(10) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(11) The Visitor shall have such other powers as may be prescribed by the Statutes.

Officers of the University.

10. The following shall be the officers of the University:—

(1) the Chancellor;

(2) the Vice-Chancellor;

(3) the Pro-Vice-Chancellor;

(4) the Deans of Schools;

(5) the Registrar;

(6) the Finance Officer; and

(7) such other officers as may be declared by the Statutes to be officers of the University.

The Chancellor.

11. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the head of the University.

(3) The Chancellor shall, if present, preside at the convocation of the University held for conferring degrees.

The Vice-Chancellor.

12. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority the action taken by him on such matter:

Provided that if the authority concerned is of opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to appeal against such action to the Board of Management within three months from the date on which decision on such action is communicated to him and thereupon the Board of Management may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

The Pro-Vice-Chancellor.

**13.** The Pro-Vice-Chancellors shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Deans of Schools.

**14.** Every Dean of a School shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Registrar.

**15.** (*1*) The Registrar shall be appointed in such manner as may be prescribed by the Statutes.

(*2*) The Registrar shall have the power to enter into agreement, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

The Finance Officer.

**16.** The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties as may be prescribed by the Statutes.

Other officers.

**17.** The manner of appointment and powers and duties of the other officers of the University shall be prescribed by the Statutes.

Authorities of the University.

**18.** The following shall be the authorities of the University, namely:—

(*1*) the Board of Management;

(*2*) the Academic Council;

(*3*) the Planning Board;

(*4*) the Boards of Studies;

(*5*) the Finance Committee; and

(*6*) such other authorities as may be declared by the Statutes to be the authorities of the University.

The Board of Management.

**19.** (*1*) The Board of Management shall be the principal executive body of the University.

(*2*) The constitution of the Board of Management, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

The Planning and Academic Committee.

**20.** (*1*) There shall be constituted a Planning and Academic Committee of the University which shall advise the Board of Management on matters relating to the University academic and development activities and oversee, review, monitor the development of the University and keep under review the standard of education and research in the University.

(*2*) The constitution of the Planning and Academic Committee, the term of office of its members and its powers and duties shall be prescribed by the Statutes.

(3) The Visitor may determine a date with effect from which the Planning and Academic Committee shall stand dissolved.

The Academic Council.

21. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University.

(2) The constitution of the Planning Board, term of office of its members and its powers and functions shall be prescribed by the Statutes:

The Planning Board.

22. (1) The Planning Board shall be the principal planning body of the University.

(2) The constitution of the Planning Board, term of office of its members and its powers and functions shall be prescribed by the Statutes.

The Board of Schools.

23. The constitution, powers and functions of the Boards of Schools shall be prescribed by the Statutes.

The Finance Committee.

24. The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes.

Other authorities of the University.

25. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes.

Power to make Statutes.

26. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of the authorities and other bodies of the University, as may be constituted from time to time;

(b) the election and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, their emoluments and other conditions of service;

(e) the appointment of teachers, academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(f) the conditions of service of employees including provision for pension, insurance and provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(*h*) the procedure for arbitration in cases of dispute between employees or students and the University;

(*i*) the procedure for appeal to the Board of Management by any employee or student against the action of any officer or authority of the University;

(*j*) the conferment of autonomous status on a College or an Institution or a Department;

(*k*) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges and Institutions;

(*l*) the conferment of honorary degrees;

(*m*) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(*n*) the institution of fellowships, scholarships, studentships, medals and prizes;

(*o*) the delegation of powers vested in the authorities or officers of the University;

(*p*) the maintenance of the discipline among the employees and students;

(*q*) all other matters which by this Act are to be or may be provided for by the Statutes.

Statutes how to be made.

27. (*1*) The first Statutes are those set out in the Second Schedule.

(*2*) The Board of Management may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (*1*):

Provided that the Board of Management shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Board of Management.

(*3*) Every new Statutes or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Board of Management for reconsideration.

(*4*) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(*5*) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (*1*), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-section, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Board of Management is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Board of Management for its inability to comply with such direction, make or amend the Statutes suitable.

Power to make Ordinances.

28. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;

(j) the appointments and emoluments of employees other than those for whom provision has been made in the Statutes;

(k) the establishment of Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;

(l) the manner of co-operation and collaboration with other Universities and authorities including learned bodies or associations;

(m) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(n) such other terms and conditions of service of teachers and other academic staff as are not prescribed by the Statutes;

(o) the management of Colleges and Institutions established by the University;

(p) the setting up of a machinery for redressal of grievances of employees; and

(q) all other matters which by this Act or the Statutes may be provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Board of Management in the manner prescribed by the Statutes.

Regulations.

29. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Annual report.

30. (1) The annual report of the University shall be prepared under the direction of the Board of Management, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects.

(2) The annual report so prepared shall be submitted to the Visitor on or before such date as may be prescribed by the Statutes.

(3) A copy of the annual report as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

Annual accounts.

31. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Board of Management and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Visitor.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Board of Management and the observations of the Board of Management, if any, shall be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Gazette of India.

Conditions of service of employees.

32. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Board of Management, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(*3*) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal.

(*4*) Every request made by the employee under sub-section (*2*), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration Act, 1940.

2 of 1940.

(*5*) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

Procedure of appeal and arbitration in disciplinary cases against students.

**32.** (*1*) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Board of Management and the Board of Management may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

(*2*) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (*2*), (*3*), (*4*) and (*5*) of section 31 shall, as far as may be, apply to a reference made under this sub-section.

Right to appeal.

**34.** Every employee or student of the University or of a College or Institution maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Board of Management against the decision of any officer or authority of the University or of the Principal of any College or Institution, as the case may be, and thereupon the Board of management may confirm, modify or reverse the decision appealed against.

Provident and pension funds

**35.** (*1*) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(*2*) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provision of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund.

19 of 1925.

Disputes as to constitution of University authorities and bodies

**36.** If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Constitution of Committees

**37.** Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Filling of casual vacancies.

**38.** All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for

the residue of the term for which the person whose place he fills would have been a member.

Proceedings of University authorities or bodies not invalidated by vacancies.

39. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

40. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

Mode of proof of University record.

41. A copy of any receipt, application, notice, order, proceeding, resolution of any authority or Committee of the University, or other documents in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or documents or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence, notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force. 1 of 1872.

Power to remove difficulties.

42. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional provisions.

43. Notwithstanding anything contained in this Act and the Statutes,—

(*a*) the first Vice-Chancellor shall be appointed by the Visitor and the said officer shall hold office for a term of five years;

(*b*) the first Registrar and the first Finance Officer shall be appointed by the Visitor and each of the said officers shall hold office for a term of three years;

(*c*) the first Board of Management shall consist of not more than eleven members who shall be nominated by the Visitor and they shall hold office for a term of three years;

(*d*) the first Academic Council and the first Planning Board shall be constituted on the expiry of a period of ten years from the commencement of this Act and during the said period of ten years, the powers and functions of these two authorities shall be exercised and performed by the Planning and Academic Committee constituted under section 20;

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Visitor, and the persons so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held that office, if such vacancy had not occurred.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

44. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

## THE FIRST SCHEDULE

(*See* section 4)

THE OBJECTS OF THE UNIVERSITY

The University shall endeavour to promote advanced knowledge by providing instructional and research facilities in Science and key and frontier areas of Technology and other allied disciplines. It would take appropriate measures for promoting innovations in teaching-learning processes in inter-disciplinary studies and research and pay special attention to the promotion of educational and economic interests and welfare of the people of Uttar Pradesh in general and of members belonging to Scheduled Castes and Scheduled Tribes in particular by providing higher percentage of seats for SCs and STs. The University shall, in organising its activities, have due regard to the objects specified in the First Schedule.

## THE SECOND SCHEDULE

(*See* section 27)

THE STATUTES OF THE UNIVERSITY

*The Chancellor*

1. (*1*) The Chancellor shall be appointed by the Visitor of the Dr. B. R. Ambedkar University recommended by the Board of Management from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Board of Management.

(*2*) The Chancellor shall hold office for a term of five years and shall be eligible for re-appointment.

*The Vice-Chancellor*

2. (*1*) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (*2*):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(*2*) The Committee referred to in clause (*1*), shall consist of three persons, none of whom shall be an employee of the University or a member of the Board of Management, Academic Council or Planning and Academic Committee member of any authority of the University or connected with an institution associated with the University and out of the three persons, two shall be nominated by the Board of Management and one by the Visitor and the nominee of the Visitor shall be the convenor of the Committee.

(*3*) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(*4*) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(*5*) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(*i*) The Vice-Chancellor shall be paid a monthly salary and allowances other than the house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(*ii*) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Board of Management with the approval of the Visitor from time to time:

Provided that where an employee of the University or a College or an Institution maintained by it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(*iii*) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Board of Management.

(*iv*) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the 1st day of January and 1st day of July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(*v*) In addition to the leave referred to in sub-clause (*iv*), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service. This half pay leave may also be availed of as commuted leave on full pay on medical certificate. When commuted leave is availed, twice the amount of half pay leave shall be debited against half pay leave due.

(*6*) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise or if he is unable to perform his duties due to ill health or any other cause, the Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if no Pro-Vice-Chancellor is not available, the senior most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor attends to the duties of his office, as the case may be.

*Powers and duties of the Vice-Chancellor*

3. (*1*) The Vice-Chancellor shall be *ex officio* Chairman of the Board of Management, the Academic Council, the Planning Board and the Finance Committee and shall, in the absence of the Chancellor, preside at the convocations held for conferring degrees.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed, and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he may deem fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meeting of the Board of Management, the Academic Council, the Planning Board and the Finance Committee.

*Pro-Vice-Chancellor*

4. (1) Every Pro-Vice-Chancellor shall be appointed by the Board of Management on the recommendation of the Vice-Chancellor:

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Board of Management, the matter shall be referred to the Visitor who may either appoint the person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Board of Management:

Provided further that the Board of Management may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Board of Management but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for reappointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (6) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until a new Vice-Chancellor or the existing Vice-Chancellor, as the case may be, assumes office:

Provided also that when the office of the Vice-Chancellor becomes vacant and there is no Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Board of Management may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed shall cease to hold office as such as soon as a Vice-Chancellor is appointed and enters upon his office.

(3) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances.

(4) A Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

*Registrar*

5. (1) The Registrar shall be appointed by the Board of Management on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

Provided that the Registrar shall retire on attaining the age of sixty years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff, as may be specified in the order of the Board of Management and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Board of Management against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Board of management, Planning and Academic Committee, the Academic Council and the Planning Board, but shall not be deemed to be a member of any of these authorities.

(7) It shall be the duty of the Registrar—

(*a*) to be the custodian of the records, the common seal and such other property of the University as the Board of Management shall commit to his charges;

(*b*) to issue all notices convening meetings of the Board of management, the Academic Council, the Planning and Academic Committee, the Planning Board and of any Committees appointed by those authorities;

(*c*) to keep the minutes of all the meetings of the Board of Management, the Academic Council, the Planning Board and of any Committees appointed by those authorities;

(*d*) to conduct the official correspondence of the Board of Management, the Academic Council, the Planning and Academic Committee and the Planning Board;

(*e*) to arrange for and superintend the examinations of the University in accordance with the manner prescribed by the Ordinances;

(*f*) to supply to the Visitor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(*g*) to represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representative for the purpose; and

(*h*) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required, from time to time, by the Board of Management or the Vice-Chancellor.

*The Finance Officer*

6. (*1*) The Finance Officer shall be appointed by the Board of Management on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Ordinances:

Provided that a Finance Officer shall retire on attaining the age of sixty years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause unable

to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(*a*) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(*b*) perform such other financial functions as may be assigned to him by the Board of Management or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Board of Management, the Finance Officer shall—

(*a*) hold and manage the property and investments of the University including trust and endowed property;

(*b*) ensure that the limits fixed by the Board of Management for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(*c*) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Board of Management;

(*d*) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(*e*) watch the progress of the collection of revenue and advise on the methods of collection employed;

(*f*) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Special Centres, Specialised Laboratories, Colleges and Institutions maintained by the University;

(*g*) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(*h*) call for from any office, Centre, Laboratory, College or Institution maintained by the University any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Board of Management for any money payable to the University shall be sufficient discharge for payment of such money.

*Deans of Schools of Studies*

**7.** (*1*) Every Dean of a School of Studies shall be appointed by the Vice-Chancellor from among the Professors in the School for a period of three years and he shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty years shall cease to hold office as such:

Provided further that if at any time there is no Professor in a School, the Vice-Chancellor, or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of the School.

(*2*) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(*3*) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the saandards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(*4*) The Dean shall have the right to be present and to speak at any meeting of the Board of Studies or Committees of the School, as the case may be, but shall not have the right to vote threat unless he is a member thereof.

*Heads of Departments*

**8.** (*1*) In the case of Departments which have more than one Professor, the Head of the Department shall be appointed by the Board of Management on the recommendation of the Vice-Chancellor from among the Professors.

(*2*) In the case of Departments where there is only one Professor, the Board of Management shall have the option to appoint, on the recommendation of the Vice-Chancellor, either the Professor or a Reader as the Head of the Department:

Provided that it shall be open to a Professor or Reader to decline the offer of appointment as the Head of the Department.

(*3*) A person appointed as the Head of the Department shall hold office as such for a period of three years and shall be eligible for reappointment.

(*4*) A Head of a Department may resign his office at any time during his tenure of office.

(*5*) A Head of a Department shall perform such duties as may be prescribed by the Ordinances.

*Proctors*

**9.** (*1*) Every Proctor shall be appointed by the Board of Management on the recommendation of the Vice-Chancellor and shall exercise such powers and perform such duties as may be assigned to him by the Vice-Chancellor.

(*2*) Every Proctor shall hold office for a term of two years and shall be eligible for reappointment.

*Librarian*

**10.** (*1*) The Liberarian shall be appointed by the Board of Management on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time officer of the University.

(*2*) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Board of Management.

*Quorum for meetings of the Board of Management*

**11.** Five members of the Board of Management shall from a quorum for a meeting of the Board of Management.

*Powers and functions of the Board of Management*

**12.** (*1*) The Board of Management shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(*2*) Subject to the provisions of this Act, the Statutes and the Ordinances, the Board of Management shall, in addition to all other powers vested in it, have the following papers namely:—

(*i*) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Readers, Lecturers and other academic staff and Principals of Colleges and Institutions maintained by the University:

Provided that no action shall be taken by the Board of Management in respect of the number, qualifications and the emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(*ii*) to appoint such Professors, Readers, Lectures and other academic staff, as may be necessary, and Principals of Colleges and Institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(*iii*) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(*iv*) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(*v*) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(*vi*) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(*vii*) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(*viii*) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(*ix*) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(*x*) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(*xi*) to enter into, vary carry out and cancel contracts on behalf of the University;

(*xii*) to entertain, adjudicate upon, and, if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(*xiii*) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(*xiv*) to select a common seal for the University and provide for the custody and use of such seal;

(*xv*) to make such special arrangements as may be necessary for the residence and discipline of women students;

(*xvi*) to delegate any of its powers to the Vice-Chancellor, the Pro-Vice-Chancellor, the Deans, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(*xvii*) to institute fellowships, scholarships, studentships, medals and prizes;

(*xviii*) to provide for the appointment of Visiting Professors. Emeritus Professors; Consultants and Schools and determine the terms and conditions of such appointments; and

(*xix*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act, or the Statutes.

*Constitution, powers and functions of the Planning and Academic Committee*

13. (*1*) The Planning and Academic Committee shall consist of the following members, namely:—

(*i*) the Vice-Chairman of the University Grants Commission appointed under sub-section (*1*) of section 5 of the University Grants Commission Act, 1956 (3 of 1956), *ex officio* Chairman;

(*ii*) the Vice-Chancellor;

(*iii*) the Pro-Vice-Chancellor;

(*iv*) all Deans of Schools;

(*v*) three teachers of the University to be nominated by the Board of Management;

(*vi*) one representative each of the:—

(*a*) Ministry of Human Resource Development (Department of Education) Government of India; and

(*b*) the State Government of Uttar Pradesh;

(*vii*) three persons of distinguished academic standing to be nominated by the Visitor;

(*viii*) three persons of eminence in public life to be nominated by the Visitor;

(*ix*) the Registrar who shall be *ex officio* Secretary of the Committee.

(*2*) All members of the Committee, other than *ex officio* members shall hold office for a term of five years.

(*3*) Subject to the provisions of this Act, the Statutes and Ordinances, the Committee shall in addition to the powers vested in it, have the following powers, namely:—

(*a*) to advise the Board of Management on matters relating to the University academic and development activities, that is to say, identification and introduction of courses, development of campus infrastructure, framing of admission and recruitment policies;

(*b*) to exercise the powers and discharge the functions of the Academic Council and the Planning Board;

(*c*) to exercise such other powers and to perform such other functions as may be conferred upon, or entrusted to, it by these Statutes.

(*4*) The Planning and Academic Committee shall meet at such intervals as it shall deem expedient, but it shall meet at least twice every year.

(*5*) On the date determined by the Visitor under sub-section (*3*) of section 20, this Statutes shall cease to have effect.

*Quorum for meetings of the Academic Council*

14. Nine Members of the Academic Council shall form a quorum for a meeting of the Academic Council.

*Powers of the Academic Council:*

15. Subject to the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(*a*) to exercise general supervision over the academic policies of the University and to give directions regarding methods of ins-

tructions, co-operative teaching among Colleges and Institutions, evaluation of research or improvements in academic standards;

(*b*) to bring about inter-School co-ordination, to establish or appoint committees or boards, for taking up projects on an inter-School basis;

(*c*) to consider matters of general academic interest either on its own initiative or on a reference by a School or the Board of Management and to take appropriate action thereon; and

(*d*) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residences, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

*The Planning Board*

16. (*1*) The Planning Board shall be the principal planning body of the University and shall be responsible for—

(*a*) reviewing the educational programmes offered by the University;

(*b*) organising the structure of education in the University so as to provide opportunities to students to offer different combinations of subjects appropriate for the development of personality and skills for useful work in society;

(*c*) creating an atmosphere and environment conductive to value-oriented education; and

(*d*) developing new teaching-learning process which will combine the lectures, tutorials, seminars, demonstrations, self-studies and collective practical projects.

(*2*) The Planning Board shall have the power to advise on the development of the University and review the progress implementation of programmes so as to ascertain whether they are on the lines recommended by it and shall also have the power to advise the Board of Management and the Academic Council on any matter in connection therewith.

(*3*) The Academic Council and the Board of Management shall be bound to consider the recommendations of the Planning Board and shall implement such of the recommendations as are accepted by it.

(*4*) Such of those recommendations of the Planning Board as have not been accepted by the Board of Management or the Academic Council under Clause (*3*) shall be submitted by the Vice-Chancellor along with the recommendations of the Board of Management or the Academic Council, to the Visitor for advise and the advise of the Visitor shall be implemented by the Board of Management or the Academic Council, as the case may be.

(*5*) The Planning Board may constitute such committee as may be necessary for planning and monitoring the programmes of the University.

*Schools of Studies and Departments*

17. (*1*) The University shall have such Schools of Studies as may be specified by the Ordinances.

(*2*) Every School shall have a School Board and the members of the first School Board shall be nominated by the Board of Management and shall hold office for a period of three years.

(*3*) The powers and functions of a School Board shall be prescribed by the Ordinances.

(*4*) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(*5*) (*a*) Each School shall consist of such Departments as may be assigned to it by the Ordinances.

(*b*) No Department shall be established or abolished except by the Statutes:

Provided that the Board of Management may, on the recommendation of the Planning and Academic Committee or the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Board of Management may consider necessary.

(*c*) Each Department shall consist of the following members, namely:—

(*i*) Teachers of the Department;

(*ii*) Persons conducting research in the Department;

(*iii*) Dean of the School;

(*iv*) Honorary Professors, if any, attached to the Department; and

(*v*) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

*Board of Studies*

18. (*1*) Each Department shall have a Board of Post-graduate Studies and a Board of Under-graduate Studies.

(*2*) The constitution of a Board of Post-graduate Studies and the term of office of its members shall be prescribed by the Ordinances.

(*3*) The functions of a Board of Post-graduate Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

(*a*) courses of studies and appointment of examiners for Post-graduate courses, but excluding research degrees;

(*b*) appointment of supervisors of research; and

(c) measures for the improvement of the standard of post-graduate teaching and research:

Provided that the above functions of the Board of Post-graduate Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department

(4) The constitution and functions of a Board of Under-graduate Studies and the term of its members shall be prescribed by the Ordinances.

*Finance Committee*

**19.** (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) the Pro-Vice-Chancellor;

(iii) three persons nominated by the Board of Management, out of whom at least one shall be a member of the Board of Management; and

(iv) three persons nominated by the Visitor.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex-officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure

(6) All proposals relating to creation of posts, and those items which have not been included in the Budget, should be examined by the Finance Committee before they are considered by the Board of Management.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Board of Management for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

*Selection Committees*

20. (*1*) There shall be Selection Committees for making recommendations to the Board of Management for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Colleges and Institutions maintained by the University.

(*2*) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, Pro-Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

| 1 | 2 |
|---|---|
| Professor . . | (*i*) The Head of the Department concerned if he is a Professor.<br>(*ii*) One Professor to be nominated by the Vice-Chancellor.<br>(*iii*) Three persons not in the service of the University, nominated by the Board of Management, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned. |
| Reader/Lecturer . . | (*i*) The Head of the Department concerned.<br>(*ii*) One Professor to be nominated by the Vice-Chancellor.<br>(*iii*) Two, persons not in the service of the University, nominated by the Board of Management, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader or a Lecturer will be concerned. |
| Registrar, Finance Officer . | (*i*) Two members of the Board of Management nominated by it.<br>(*ii*) One person not in the service of the University nominated by the Board of Management. |
| Librarian . . . | (*i*) Two persons not in the service of the University, who have special knowledge of the subject of the Library Science Library Administration to be nominated by the Board of Management. |

| 1 | 2 |
|---|---|
| | (*ii*) One person not in the service of the University, nominated by the Board of Management. |
| Principal of College or Institution maintained by the University | Three persons not in the service of the University of whom two shall be nominated by the Board of Management and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution. |

NOTE: 1. Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

2. The Professor to be nominated shall be Professor concerned with the speciality for which the selection is being made and that the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence, the Pro-Vice-Chancellor shall preside at the meetings of a Selection Committee:

Provided that the meetings of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the persons nominated by the Board of Management under clause (2):

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(*a*) where the number of Visitor's nominee and the persons nominated by the Board of Management is four in all, at least three of them attend the meeting; and

(*b*) where the number of Visitor's nominee and the persons nominated by the Board of Management is three in all, at least two of them attend the meeting.

(4) The meeting of a Selection Committee shall be convened by the Vice-Chancellor or in his absence by the Pro-Vice-Chancellor.

(5) The procedure to be followed by a Selection Committee in making recommendations shall be laid down in the Ordinances.

(6) If the Board of Management is unable to accept the recommendations made by a Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(7) Appointments to temporary posts shall be made in the manner indicated below:—

(*i*) If the temporary vacancy is for a duration longer than one academic session, it shall be filled on the advice of the Selection

Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis by a local Selection Committee referred to in sub-clause (*ii*) for a period not exceeding six months.

(*ii*) If the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in case sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(*iii*) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

*Special mode of appointment*

21. (*1*) Notwithstanding anything contained in Statute 20, the Board of Management may invite a person of high academic distinction and professional attainments to accept a post of Professor or Reader or any other academic post in the University, as the case may be, on such terms and conditions as it deems fit, and on the person agreeing to do so appoint him to the post.

(*2*) The Board of Management may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

*Appointment for fixed tenure*

22. The Board of Management may appoint a person selected in accordance with the procedure laid down in Statute 20 for a fixed tenure on such terms and conditions as it deems fit.

*Recognised teachers*

23. (*1*) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

(2) All applications for the recognition of teachers shall be made in such manner as may be laid down in the Ordinances.

(3) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(4) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(5) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

(6) Any person aggrieved by an order of withdrawal under clause (5) may, within three months from the date of communication to him of such order, appeal to the Board of Management which may pass such orders thereon as it thinks fit.

*Committees:*

**24.** (1) Any authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

(2) Any such Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing.

*Terms and conditions of service and code of conduct of the teachers, etc.*

**25.** (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

(2) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(3) A copy of every contract referred to in clause (2) shall be deposited with the Registrar.

*Terms and conditions of service and code of conduct of other employees*

**26.** All the employees of the University other than the teachers and other academic staff of the University, shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

*Seniority list*

**27.** (*1*) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade, and, in accordance with such other principles as the Board of Management may, from time to time, prescribe.

(*2*) It shall be the duty of the Registrar to prepare and maintain, in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (*1*).

(*3*) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Board of Management whose decision thereon shall be final.

*Removal of employees of the University*

**28.** (*1*) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee, may, by order in writing place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Board of Management the circumstances in which the order was made:

Provided that the Board of Management may, if it is of the opinion that the circumstances of the case do not warrant the suspension of the teacher or the member of the academic staff, revoke such order.

(*2*) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Board of Management in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff, or as the case may be, other employee on grounds of misconduct.

(*3*) Save as aforesaid, the Board of Management or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(*4*) No teacher, member of the academic staff or other employee shall be removed under clause (*2*) or clause (*3*) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(*5*) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspention at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign.—

(*a*) if he is a permanent employee, only after giving three months' notice in writing to the Board of Management or the appointing authority, as the case may be, or by paying three month's salary in lieu thereof;

(*b*) if he is not a permanent employee, only after giving one month's notice in writing to the Board of Management or, as the case may be, the appointing authority or by paying one months' salary in lieu thereof;

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Board of Management or the appointing authority, as the case may be.

*Honorary degrees*

**29.** (*1*) The Board of Management may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Provided that in case of emergency, the Board of Management may, on its own motion, make such proposals

(*2*) The Board of Management may, by a resolution passed by a majority of not less than two-thirds of the members present and voting withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

*Withdrawal of degrees, etc.*

**30.** The Board of Management may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Board of Management.

*Maintenance of discipline among students of the University*

**31.** (*1*) All powers relating to discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

(2) The Vice-Chancellor may delegate all or any of his powers as he deems proper to a Proctor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Department of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges and Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University as may be necessary for the proper conduct of such Colleges, Institutions, Schools and teaching Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principals and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary for the aforesaid purposes.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

*Convocations*

32. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

*Acting Chairman of meetings*

33. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

*Resignation*

34. Any member, other than an *ex officio* member of the Board of Management, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

*Disqualifications*

**35.** (*1*) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,—

(*i*) if he is of unsound mind;

(*ii*) if he is an undischarged insolvent;

(*iii*) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(*2*) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (*1*), the question shall be referred to the Visitor and his decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

*Residence condition for membership and office*

**36.** Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall be eligible to be an officer of the University or a member of any authority of the University.

*Membership of authorities by virtue of membership of other bodies*

**37.** Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

*Alumni Association*

**38.** (*1*) There shall be an Alumni Association for the University.

(*2*) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(*3*) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of the election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

*Students' Council*

**39.** (*1*) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(*i*) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(*ii*) all students who have won prizes in the previous academic year in the fields of studies, fine, arts, sports and extension work;

(iii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports activities and all-round development of personality:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

*Ordinances how made*

**40.** (1) The first Ordinances made under sub-section (2) of section 28 may be amended, repealed or added to at any time by the Board of Management in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in section 28 other than those enumerated in clause (*n*) of sub-section (1) thereof shall be made by the Board of Management unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Board of Management shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for reconsideration, either in whole or in part together with any amendment which the Board of Management may suggest.

(4) Where the Board of Management has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Board of Management which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Board of Management shall come into effect immediately

(6) Every Ordinance made by the Board of Management shall be submitted to the Visitor within two weeks from the date of its adoption. The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Board of Management about his objection to the proposed Ordinance. The Visitor may, after receiving the comments of the University, either

withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.

*Regulations*

**41.** (*1*) The authorities of the University may make Regulations consistent with the Act, the Statutes and the Ordinances for the following matters, namely:—

(*i*) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(*ii*) providing for all matters which are required by the Act the Statutes or the Ordinances to be prescribed by Regulations;

(*iii*) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(*2*) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(*3*) The Board of Management may direct the amendment in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

*Delegation of powers*

**42.** Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

## STATEMENT OF OBJECTS AND REASONS

The Uttar Pradesh Dr. Bhim Rao Ambedkar Act, 1989 (UP Act 25 of 1989) was enacted by the State Legislature to establish and incorporate a unitary teaching and residential University at Lucknow as a memorial to the life and works of the late Dr. Bhim Rao Ambedkar. However the establishment of the Unversity under the State Act was not notified by the State Government.

2. The U.P. Government had requested that the Central Govt. should either convert the Dr. B. R. Ambedkar University of the State Govt. into a Central University or agree to bear 50 per cent of the projected cost for the establishment of the University. The Standing Committee for the celebration of Centenary Year of Dr. B. R. Amebedkar had resolved that this University be converted into a Central University and that it may specialize in technology courses and provide for higher percentage of seats for SCs/STs.

3. The Bill seeks to establish a teaching and residential University at Lucknow in the State of Uttar Pradesh. The University shall promote advanced courses in Science and key and frontier areas of technology and other allied disciplines in the educational programmes of the University; take appropriate measures for promoting innovations in teaching-learning process in inter-disciplinary studies and research and pay special attention to the improvement of social and economic conditions and welfare of the people of Uttar Pradesh in general and to members belonging to Scheduled Castes and Scheduled Tribes in particular by providing higher percentage of seats for SCs and STs.

4. The Bill seeks to achieve the above objectives.

ARJUN SINGH

## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a Central University in Uttar Pradesh at Lucknow.

2. The State Government of Uttar Pradesh had estimated Rs. 200.00 crores as the cost of setting up the University. An appropriate estimate of funds required for setting up the University would be assessed in the project report to be got prepared through the University Grants Commission. Since the Dr. Bhim Rao Ambedkar University would be specialising in technology, courses, the cost of setting up this University would be more than that of a conventional University. During the balance of the 8th Plan Period, the Government would require Rs. 8.12 crores for setting up the proposed Central University.

3. The above mentioned expenditure will be met by the University Grants Commission from its Plan allocation after approving developmental proposal of the proposed University on 5-year basis with a view to ensuring its optimum development.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill provides that the first Statutes are those set out in the Schedule to the Bill. It also empowers the Board of Management of the University to make a new or additional Statutes or amend or repeal the Statutes of the University subject to the assent of the Visitor Sub-clause (5) of the aforesaid clause empowers the Visitor also to make new or additional Statutes or amend or repeal the Statutes of the University during the period of three years immediately after the commencement of the Act. Sub-clause (6) further empowers the Visitor to direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Board of Management is unable to implement such directions within sixty days of its receipts, the Visitor may, after considering the request, if any communicated by the Board of Management for its inability to comply with such directions, make or amend the Statutes suitably. The matter in respect of which the Board of Management and the Visitor may make, amend or repeal Statutes include the constitution, powers and functions of the authorities and other bodies of the University, the appointment of officers and teachers of the University, the conditions of service of the employees of the University and other such matters.

2. Clause 28 of the Bill empowers the Vice-Chancellor of the university to make the first Ordinances of the University with the previous approval of the Central Government and provides that the Ordinances so made may be amended, repealed or added to at any time by the Board of Management in the manner prescribed by the Statutes. The matters in respect of which Ordinances may be made, or as the case may be, amended, repealed or added to, relate to admission of students, Courses of Study, medium of instruction and examination, the establishment of Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and the manner of co-operation and collaboration with other Universities and authorities the management of colleges and Institutions established by the University and other such matter.

3 Clause 29 of the Bill enables the authorities of the University to make Regulations, consistent with the Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

4. The matter for which Statutes, Ordinances or Regulations may be made pertain to matter of procedure or detail and it is hardly possible to provide for them in the Bill. The delegation of legislative powers is therefore, of a normal character.

V. S. RAMA DEVI
*Secretary-General.*

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